

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

FRESIA L. KENNY, WILLIAM KENNY, *et al.*

Plaintiffs,

v.

THE HORNED DORSET PRIMAVERA, INC.,
et al.

Defendants.

CIVIL NO.: 18-1108 (MEL)

OPINION AND ORDER

Pending before the court is the Horned Dorset Primavera, Inc.'s ("Defendant") motion to dismiss for lack of subject matter jurisdiction. ECF No. 18. Defendant claims that Fresia L. Kenny and William Kenny's ("Plaintiffs") complaint does not rise to the level at which a reasonable jury could award them \$75,000. The motion to dismiss, however, asks the court to assume certain facts to be true that appear to be in dispute. For example, the complaint alleges that Ms. Kenny suffered "numerous stitches" (ECF No. 1, at 4), while the motion to dismiss makes reference to "a few stitches" (ECF No. 18, at 3). Given that the discovery phase is still in its early stages, and specifically that the extent of Plaintiffs' damages are unclear, the motion to dismiss is denied without prejudice. The court will be willing to entertain the motion after the discovery phase of the case has concluded, but prior to the deadline to file dispositive motions. Additionally, Defendant should consider whether a motion for summary judgment might be a better vehicle through which to address this matter.

IT IS SO ORDERED

In San Juan, Puerto Rico, this 1st day of November, 2018.

s/Marcos E. López
U.S. Magistrate Judge